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SUBJECT: Ghana - National Trade Estimate 2008

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¶1. Summary. This cable contains Embassy Ghana's submission for the 2008 National Trade Estimate Report. As instructed reftel, a copy in Word format was submitted via e-mail to USTR. End Summary.

¶2. Begin Text of National Trade Estimate:

TRADE SUMMARY
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(Not updated, per reftel instructions)

The U.S. goods trade surplus with Ghana was $98 million in 2006, a decrease of $81 million from $179 million in 2005. U.S. goods exports in 2006 were $290 million, down 14.1 percent from the previous year. Corresponding U.S. imports from Ghana were $192 million, up 21.3 percent. Ghana is currently the 97th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in Ghana in 2005 was $230 million (latest data available), down from $238 million in ¶2004.

IMPORT POLICIES
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Tariffs

Ghana is a Member of the WTO and the Economic Community of West African States (ECOWAS). Along with other ECOWAS countries, Ghana adopted a common external tariff (CET) in 2005. The ECOWAS CET requires that members simplify and harmonize ad valorem tariff rates into four bands: zero duty on social goods (e.g., medicine, publications); 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; and 20 percent duty on finished goods. Currently, Ghana maintains 190 exceptions to the CET. Tariff rates for the items covered under exceptions are within the 0 percent to 20 percent range, but will require some increase or decrease to align with the CET. Ghana, along with six other Anglophone countries, is currently in a transition period and is negotiating the exceptions with ECOWAS. The transition period ends December ¶2007. The deadline for agreement on a comprehensive ECOWAS CET is January 2008 but this deadline may not be met.

The Ghanaian government continues to support domestic private enterprise with financial incentives and tax holidays in order to develop competitive domestic industries with export capabilities. Nevertheless, Ghanaian manufacturers and producers contend that the country's relatively low tariff structure puts them at a competitive

disadvantage vis-`-vis imports from countries that enjoy greater production and marketing economies of scale. Conversely, the relatively low tariff structure reduces producer costs for imported raw materials and inputs, so there is also some local demand for further tariff reductions, especially on inputs used by local businesses. Since 2004, the Ghanaian government has responded by reducing the import duty on livestock inputs, pharmaceutical raw materials, and inputs for textiles production. In addition, there is a zero tariff on some imported manufacturing raw materials. Further adjustments both upward and downward may occur as the CET process moves ahead. Tariff information is available on the Customs Excise and Preventive Service (CEPS) website (www.cepsghana.org).

Non-Tariff Measures

Importers are confronted by a variety of fees and charges in addition to tariffs. Ghana levies a 12.5 percent value-added tax (VAT) plus 2.5 percent National Health Insurance Levy on the duty-inclusive value of all imports and locally-produced goods, with a few selected exemptions. In addition, Ghana imposes a 0.5 percent ECOWAS surcharge on all goods originating from non-ECOWAS countries and charges 0.4 percent of the sum of the free on board (FOB) value of goods and VAT for the use of the automated clearing system, the Ghana Community Network (GCNet). Further, under the Export Development and Investment Fund Act, Ghana imposes a 0.5 percent duty on all non-petroleum products imported in commercial quantities. Ghana also applies a 1 percent processing fee to all duty-free imports. All imports are subject to destination inspection and an inspection fee of 1 percent cost, insurance, freight (CIF). Importers have indicated that they would prefer a flat fee on each transaction. The destination inspection services are currently provided by four private companies licensed by the government of Ghana. Importers are lobbying the Ghanaian government to shift the provision of destination services from the four licensed companies to Ghana Customs because of the cost and delays incurred as a result of having an outside provider.



In July 2007, ad valorem excise tax on locally produced and imported malt drinks, water, beer, and tobacco products was replaced with specific rates. This is the outcome of a study sponsore by Coca-Cola for the GoG. The previous ad valorem excise tax was between 5 percent and 140 percent for these products. Specific rates are now charged on liter basis depending on the level of alcohol content. Carbonated soft drinks now attract 0.04 GHC per liter, while malt drink attracts 0.05 GHC per liter excise tax. Tobacco products have a range of 0.01 GHC to 0.03 GHC per stick depending on quality . An examination fee of 1 percent is applied to imported vehicles. Imported used vehicles that are more than 10 years old incur an additional tax (penalty) ranging from 5 percent to 50 percent of the CIF value of the used vehicles. Ghana Customs maintains a price list of vehicles that it uses to determine the value of used vehicles for tax purposes. There are complaints that this system is non-transparent. The price list is not publicly available. TheGCNet, site offers an online tool to help determine value but the results do not have legal standing. Only CEPS can make the authoritative determination.
http://www.ghanatradenet.com/carValues/defaul t.asp.
All communications equipment requires a clearance letter from the National Communications Authority.

Each year, between May and October, there is a temporary ban on the importation of fish, except canned fish, to protect local fishermen during their peak season. Ghana continues to ban imports of U.S. bone-in beef due to Bovine Spongiform Encephalopathy (BSE). Certificates are required for agricultural, food, cosmetics and pharmaceutical imports. The procedures are cumbersome. Permits are required for poultry and poultry product imports. The permit process is time-consuming, and at the time the permit is issued, a non-standardized quantity limit is imposed. Ghana prohibits the importation of meat with a fat content by weight greater than 25 percent for beef, 42 percent for pork, 15 percent for poultry, and 35 percent for mutton. It also restricts the importation of condensed or evaporated milk with less than 8 percent milk fat by weight, and dried milk or milk powder containing less than 26

percent by weight of milk fat, with the exception of imported skim milk in containers. Imported turkeys must have their oil glands removed. Effective November 1, 2007, the GoG imposed a temporary ban on the import of tomato paste and concentrates, citing "unfair trade practices." Importers are challenging the ruling in court.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Ghana has issued its own standards for most products under the auspices of its testing authority, the Ghana Standards Board (GSB). The GSB has promulgated more than 250 Ghanaian standards and adopted more than 3,057 international standards for certification purposes. The GSB determines standards for all products. Authority for enforcing standards for food, drugs, cosmetics, and health items lies with the Food and Drugs Board.

In July 2005, Ghana instituted a "Conformity Assessment Program," which requires that some imported goods it classifies as "high risk goods" be inspected by the GSB officials at the port to ensure they meet Ghanaian standards before obtaining release from customs. The GSB has classified the high risk goods (HRG) into 17 broad groups, including food products, electrical appliances and used goods. The classification of items is vague and broad in scope and presents numerous questions regarding coverage.
For example, the category of "alcoholic and non-alcoholic products" could feasibly include beverages, pharmaceuticals, and industrial products under the same classification. The process requires prior registration with GSB as an importer of HRG and a GSB approval to import HRG. The importer must submit to GSB a sample of the high risk product, accompanied by a certificate of analysis or a certificate of conformance from accredited laboratories in the country of import. Most often, the GSB officials conduct a physical examination and check labeling and marking requirements and ensure that goods are released within 48 hours. Currently, the fee for registering each HRG is GHC 100 ((about $93.50). There is also a testing fee in addition to the registration fees. This is not fixed but based on the number and kinds of parameters tested. The GSB has recently published most of their fees on their website (http://ghanastandards.org). U.S. companies, however, have expressed concern that the standards which the program tests against are unknown and independent third party certifications and marks may not be recognized, resulting in costly and redundant testing.

GOVERNMENT PROCUREMENT
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Ghana is not a signatory to the WTO Agreement on Government Procurement. In December 2003, however, Parliament passed a public procurement law that codified guidelines to enhance transparency and efficiency and assign administration of procurement to a central body.



In August 2004, the government inaugurated the Public Procurement Board. Individual government entities have formed tender committees and tender review boards to conduct their own procurement. Large public procurements are made by open tender and non-domestic firms are allowed to participate. A draft guideline being applied gives a margin of preference of 7.5 percent to 20 percent to domestic suppliers of goods and services for international competitive bidding. Notwithstanding the procurement law, companies cannot expect complete transparency in locally funded contracts and allegations of corruption are fairly common.

EXPORT SUBSIDIES
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The government uses preferential credits and tax incentives to promote exports. The Export Development Investment Fund administers financing on preferential terms using a 12 percent interest rate, which is below market rates. Agricultural export subsidies were eliminated in the mid-1980s. The Export Processing Zone (EPZ) Law, enacted in 1995, leaves corporate profits untaxed for the first 10 years of business operation in an EPZ, after which the tax rate climbs to 8 percent (the same as for non-EPZ companies). Seventy percent of production in the EPZ zones must be exported. The current

corporate tax rate for non-exporting companies is 25 percent.

## INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Ghana is a party to the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the World Intellectual Property Organization (WIPO) Copyright Treaty and the African Regional Industrial Property Organization. Ghana has signed the WIPO Performances and Phonograms Treaty. Since December 2003, Parliament has passed six bills designed to bring Ghana into compliance with the TRIPS Agreement. The new laws address copyright, trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications, and industrial designs. Regulations to define the procedures for IPR protection and enforcement have not been promulgated.

Piracy of copyrighted works is known to take place, although there is no reliable information on the scale of this activity. Holders of intellectual property rights have access to local courts for redress of grievances, although few trademark, patent, and copyright infringement cases have been filed in Ghana in recent years. Government initiated enforcement remains relatively rare but the Copyright Office under the Attorney-General's Office has initiated several raids on pirated works and the customs service has implemented collaboration with some companies to check import shipments for specific counterfeit products.

## SERVICES BARRIERS

The investment code excludes foreign investors from participating in four economic sectors: petty trading, the operation of taxi and car rental services with fleets of fewer than ten vehicles, lotteries (excluding soccer pools), and the operation of beauty salons and barber shops. Provision of services by professionals such as lawyers, accountants, and doctors requires membership in a professional body. Requirements for membership are identical for both Ghanaians and non-Ghanaians.

Ghana has committed to offering access to foreign telecommunications providers for most basic services, but requires that these services be provided through joint ventures with Ghanaian nationals. The NCA has yet to become an effective mechanism to resolve complaints of anticompetitive practices by Ghana Telecom, the state-owned national telecommunications operator.

Ghana allows up to 60 percent foreign ownership in insurance firms. This cap does not apply to auxiliary insurance services, which allows 100 percent foreign ownership. Ghana allows foreign companies to provide a full range of services, as long as they are registered as companies in Ghana.

Foreigners may participate in banking and other non-insurance financial services but there are some conditions relating to non-resident foreigners. Shares held by a single non-resident foreigner and the total number of shares held by all non-resident foreigners in one security listed on the Ghana Stock Exchange may not exceed 10 percent and 74 percent, respectively. The Central Bank must issue licenses for banking and leasing. For securities trading, a license is required from the Securities Regulatory Commission. Capital requirements for establishing a bank have been increased to 7 million GHC (approximately $7.45million), and are now the same for both foreign-owned banks and Ghanaian-owned banks. In October 2007,



the Bank of Ghana proposed to increase capital requirement from GHC 7 million to GHC 50 - GHC 60, effective January 2009.

## INVESTMENT BARRIERS

The 1994 Investment Code (Act 478) eliminated the need for prior approval of foreign investment projects by the Ghana Investment Promotion Center. Registration, primarily for statistical purposes

is required and is supposed to take no longer than five working days but often takes longer. In order to improve its service, the Ghana Investment Promotion Center in 2007, introduced an online registration system http://www.gipc.org.gh/forms_page.aspx. The World Bank reported in its "Doing Business 2008" report that the total time to start a business in Ghana was 42 days, an improvement from 81 days the previous year, attributable primarily to recognition by the Bank that obtaining a company seal, which takes 6 weeks, is not mandatory.

Work visa quotas for businesses are in effect. The following minimum equity requirements apply, in the form of either cash or its equivalent in capital goods, for non-Ghanaians who want to invest in Ghana: $10,000 for joint ventures with a Ghanaian; $50,000 for enterprises wholly-owned by a non-Ghanaian; and $300,000 for trading companies (firms that buy/sell finished goods) either wholly or partly-owned by non-Ghanaians. Due to some intense lobbying by the Ghana Union of Traders Association, the GIPC has proposed to government to increase the minimum equity for trading to $1 million. Trading companies must also employ at least ten Ghanaians.

## ELECTRONIC COMMERCE

Barriers to electronic commerce are mainly due to inadequate telecommunications and financial infrastructure. The legal framework for electronic transaction has been drafted but is yet to be passed. The payment system in Ghana is largely cash-based and use of credit cards brings a high risk of fraud. The government plans to roll out a national switch that will link banks and financial institutions throughout Ghana and ease the way for expansion of point of sale and other electronic payments tools by March, 2008.

The Foreign Exchange Act passed in November 2006 provides a legal framework for the management of foreign exchange transactions and has eased making foreign payments abroad.

## OTHER BARRIERS

There are frequent problems related to the complex land tenure system, and establishing clear title can be difficult. Non-Ghanaians can have access to land only on a leasehold basis.

Frequent backlogs of cargo at the port hurt the business climate. The Customs Service phased in an automated customs declaration system that was established in the last quarter of 2002 to facilitate customs clearance. Although the new system has cut down the number of days for clearing goods from the ports, the desired impact has yet to be realized because complementary services from government agencies, banks, destination inspection companies, and security services have not been established.

While we have seen a decrease in interest rates for some more established borrowers, the high cost of local financing (with short-term interest rates currently above 20 percent for most borrowers remains a significant disincentive for local traders, inhibiting the expansion of many Ghanaian businesses from their current micro-scale of operations. The high cost of credit in Ghana is a function of the high risks of doing business in Ghana. and directed lending to state-owned enterprises. Ghanaian banks are among Africa's most profitable.

The residual effects of a highly regulated economy and lack of transparency in government operations create an added element of risk for potential investors. Bureaucratic inertia is frequently a problem in government ministries, and administrative approvals take longer than they should. Entrenched local interests sometimes have the ability to derail or delay new entrants, and securing government approvals may depend upon an applicant's local contacts. The political leanings of the Ghanaian partners of foreign investors are often subject to government scrutiny and corruption remains a challenge.

## RANKING of BARRIERS

Removal of any barrier cited in this report would represent well



under $10 million in potential U.S. exports.   Ghana, especially in the absence of increased regional integration, is a small economy, representing a small market.

End Text of national trade Estimate.

BRIDGEWATER